

APPLICANT(S): LEVY, Shmuel
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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1-3, 6, 7, 9-11, 13, 15, 19, 20, 22, 24, 28-30 and 32 are pending. Claims 1-3, 6, 7, 9-11, 13, 15, 19, 20, 22, 24, 28-30 and 32 have been rejected. Claims 1-3, 6-7, 9, 10, 13, 15, and 19 have been amended. No new matter has been added.

Claims 11 and 28-30 and 32 have been canceled without prejudice or disclaimer. In making this cancellation without prejudice, Applicant reserves all rights in these claims to file divisional and/or continuation patent applications.

THE TELEPHONE INTERVIEW

Initially, Applicant wishes to thank Examiner Nguyen for granting and attending the telephone interview, with Applicant's Representative, Caleb Pollack, Reg. No. 37,912, and Moshe Vegh, as representative of the assignee, on February 11, 2009. (The undersigned notes that while Shmuel Levy, an inventor, is listed on the Examiner's Interview Summary form, Shmuel Levy did not participate in this telephone interview.) During the interview, claims 1, 6 and 9 were discussed, as was Greenstein et al. (US 6,131,016), Kim et al. (US 2004/0132496) and the background of the present Application. No agreement was reached. However, the Examiner agreed to consider the amendments and arguments presented.

AMENDMENTS TO THE SPECIFICATION

The amendments to the Specification are editorial in nature and do not introduce new matter. The background has been amended to clarify the known state of the prior art at the time of the filing of the Application.

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35 U.S.C. § 103 REJECTIONS

In the Office Action, the Examiner rejected claims 1-3, 5-7, 28-30 and 32 under 35 U.S.C. § 103(a), as being unpatentable over Greenstein et al. (US 6,131,016) in view of Dabak et al (US 2004007118) and further in view of the background of Applicant's Specification. Applicant believes that this rejection has been overcome in view of the amendments made above and the remarks that follow.

Independent claims 1 and 6, as amended, each includes limitations that are not disclosed or suggested by the combination of Greenstein, Dabak and the background of Applicant's specification. It is well established that obviousness requires a teaching or a suggestion by the prior art of all the elements of a claim (M.P.E.P. §2142). Without conceding the appropriateness of the combination, Applicant respectfully submits that the combination of Greenstein, Dabak and the prior art described in Applicant's amended paragraph [003] of the background does not meet the requirements of an obvious rejection because none of the references or prior art discloses or suggests at least "...adaptively selecting a coding mode of each orthogonal frequency division multiplexing (OFDM) sub-carrier symbol of a data stream either in a diversity mode or in a multiplexing mode according to a feedback data packet having a coding information of the OFDM subcarrier symbol..." as claimed in amended independent base claim 1 and "...coding symbols of a second subset of said sub-carriers of said orthogonal frequency division multiplexing channel in a multiplexing mode wherein, said coding is selectable according to a feedback data packet having a coding information of the OFDM subcarrier symbol..." as claimed in amended independent base claim 6.

Each of claims 2, 3 and 5 depends from claim 1 and claim 7 depends from claim 6. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 2, 3, 5, and 7 are similarly patentable over the cited references by virtue of at least such dependency. Claims 28-30 and 32 have been canceled without prejudice or disclaimer.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-3, 5-7, 28-30 and 32 under 35 U.S.C. § 103(a), as being unpatentable over Greenstein et al. (US 6,131,016) in view of Dabak et al (US 2004007118) and further in view of the background of Applicant's Specification.

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In the Office Action, the Examiner rejected claims 9, 11, 13, 15, 19, 22 and 24 under 35 U.S.C. § 103(a), as being unpatentable over Kim et al. (US 2004/0132496) in view of the background of Applicant's Specification. Applicant believes that this rejection has been overcome in view of the amendments made above and the remarks that follow.

Each of amended independent claims 9 and 19 includes limitations that are not disclosed or suggested by the combination of Kim in the view of the background of Applicant's Specification. Applicant respectfully submits that the combination of Kim and Applicant's amended paragraph [003] of the background does not meet the requirements of an obvious rejection because neither of the references discloses or suggests at least the claim element of "... a coding mode selector to select a coding mode of a symbol of said first and second orthogonal frequency division multiplexing sub-carriers symbols streams according to a feedback data packet having coding information of the OFDM subcarrier symbol ..." as claimed in amended independent base claim 9 and 19.

Claim 11 has been canceled without prejudice or disclaimer.

Each of claims 13 and 15 depends from claim 9 and each of claims 22 and 24 depends from claim 19. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 13, 15, 22 and 24 are similarly patentable over the cited references at least by virtue of the dependency.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 9, 11, 13, 15, 19, 22 and 24 under 35 U.S.C. § 103(a), as being unpatentable over Kim et al. in view of the background of Applicant's Specification.

In addition, in the Office Action, the Examiner rejected claims 10 and 20 under 35 U.S.C. § 103(a), as being unpatentable over Kim et al (US 20040132496) and the background of Applicant's Specification in view of Wu et al (US 6,985,434).

Each of claims 10 and 20 depends from one of claims 9 and 19. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 10 and 20 are similarly patentable over the cited references at least by virtue of such dependency.

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Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 10 and 20 under 35 U.S.C. § 103(a), as being unpatentable over Kim and the background of Applicant's Specification in view of Wu.

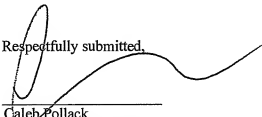
Conclusion

In view of the foregoing amendments and remarks, Applicant asserts that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Except for the fee for the petition for extension of time, being paid separately, no fees are believed to be due in connection with this paper. However, if any such fees are due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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